

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

824I0768

SENATE ENGROSSED NO. **HB 1282** - 03/04/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Peterson (Bill), Madsen, Michels, and Olson (Mel) and
Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the official records
2 and the notification requirements relating to a pardon.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-14-11 be amended to read as follows:

5 24-14-11. Any person who has been granted a pardon under the provisions of this chapter
6 shall be released from all disabilities consequent on ~~such~~ the person's conviction. Upon the
7 granting of a pardon under the provisions of this chapter, the Governor shall order that all official
8 records relating to the pardoned person's arrest, indictment or information, trial, finding of guilt,
9 and receipt of a pardon shall be sealed. ~~The effect of such order is to restore such~~ The Governor
10 shall certify as part of the pardon whether or not the pardon was issued following the provisions
11 of this chapter. The receipt of any pardon, which was granted without following the provisions
12 of this chapter, may not be sealed. The pardon restores the person, in the contemplation of the
13 law, to the status the person occupied before arrest, indictment, or information. No person as
14 to whom such order has been entered may be held thereafter under any provision of any law to
15 be guilty of perjury or of giving a false statement by reason of such person's failure to recite or



1 acknowledge such arrest, indictment, information, or trial in response to any inquiry made of
2 such person for any purpose.

3 For the sole purpose of consideration of the sentence of a defendant for subsequent offenses
4 or the determination of whether the defendant is a habitual offender under chapter 22-7 or 32-23,
5 the pardoned offense shall be considered a prior conviction.

6 The court shall forward a nonpublic record of disposition to the Division of Criminal
7 Investigation. The nonpublic record shall be retained solely for use by law enforcement agencies,
8 prosecuting attorneys, and courts in sentencing such person for any subsequent offense and in
9 determining whether or not, in any subsequent proceeding, the person is an habitual offender
10 under chapter 22-7 or 32-23.

11 Section 2. That § 24-14-4 be amended to read as follows:

12 24-14-4. Any applicant shall, upon notice of hearing from the board for clemency
13 consideration, ~~publish once, at a time between one and two weeks prior to the hearing, in some~~
14 ~~newspaper of general circulation in~~ each week for three consecutive weeks in all official
15 newspapers designated by the county where the offense was committed or, if no such newspaper
16 ~~exists, shall post in a conspicuous place on the door of the courthouse of such county, the name~~
17 ~~of the person on whose behalf the application is made, the public offense for which he~~ the person
18 ~~was convicted, the time of his~~ the person's conviction, and the term of imprisonment. The last
19 publication shall be published at least twenty days before the hearing. The affidavit of the
20 publisher of the paper or the person posting the notice showing that notice has been published
21 or posted shall accompany the application. This notice requirement does not apply to an inmate
22 who has been released from the state penitentiary for at least five years and who was convicted
23 of not more than one felony, if the felony for which ~~he~~ the inmate was convicted is not
24 punishable by life imprisonment.

Section 3. That chapter 24-14 be amended by adding thereto a NEW SECTION to read as follows:

Upon the scheduling of a clemency hearing, the Board of Pardons and Paroles shall notify the victim pursuant to §§ 24-15-8.1 and 24-15A-22. Notice of a clemency hearing shall be made at least two weeks prior to the hearing. The notice shall provide the offender's clemency hearing date, time, and location and shall advise the victim that the victim may be present at the hearing and may state an opinion regarding clemency.

Section 4. That § 24-14-9 be amended to read as follows:

24-14-9. Applications for exceptional pardons shall be in accordance with §§ 24-14-3~~and~~, 24-14-5, and section 3 of this Act. The notice requirement contained in § 24-14-4 ~~shall~~ does not apply to exceptional pardons.

Section 5. That § 24-15-8.1 be amended to read as follows:

24-15-8.1. The victim may request in writing to be notified by the Board of Pardons and Parole when an inmate who was convicted of committing the crime is granted parole~~or~~, the inmate's parole is revoked, an offender is granted a clemency hearing, or clemency is recommended. The board shall send the notice by first class mail to the address provided by the victim. However, the board is not liable for any damages to the victim if it fails to mail the notice.

Section 6. That § 24-15A-22 be amended to read as follows:

24-15A-22. The victim may request in writing to be notified by the board when an inmate who was convicted of committing the crime is released on parole~~or~~, the inmate's parole is revoked, an offender is granted a clemency hearing, or clemency is recommended. The board shall send the notice by first class mail to the address provided by the victim. However, the board is not liable for any damages to the victim if it fails to mail the notice.